cient answer to show that the indorsee of such drawer would not be damaged by the negligence of its collecting agent in not duly presenting and giving notice. The court held that although the drawer by reason of want of funds and want of right to draw remains liable on indorsement without presentment, demand, or notice, and the indorsee's right of recourse still exists, there was still a liability of the negligent collection agent, because by neglecting to present for acceptance and giving notice, the collecting agent has deprived the indorsee of the prompt notice which would or might have enabled him to have prompt recourse on the indorser, thus giving him an opportunity or chance to have obtained payment or security from his immediate indorser before such indorser's failure, assignment or bankruptcy. The court said:

'The law does not permit the collecting agent to decide in advance that, because the drawer may have in fact been insolvent, therefore the indorser, from pursuit of his rights of recourse, would not have availed. If the collecting agent fails to give his principal and indorsee the benefit of such choice, he is liable.'

To like general effect may be cited Hawley Dodd & Co. *v.* Jette & Clark (10 Or. 31, 45 Am. Rep. 129); Grimes *v.* Tait (21 Okl. 361, 99 Pac. 810); Welch *v.* Taylor Mfg. Co. (82 Ill. 579); Smith *v.* Miller (52 N. Y. 545)."

Corporations—Deduction of Income Tax—Liability to Holder on Bonds Promised Free of Taxation.—In Urquhart *v.* Marion Hotel Co., in the Supreme Court of Arkansas (April, 1917, 194 S. W. 1), it was held that a clause in bonds issued by a corporation promising payment without deduction from either principal or interest for any tax or taxes which the corporation may be required to pay or retain therefrom under any present or future law, the corporation agreeing to pay such tax, does not require the corporation to pay a bondholder's federal income tax, the amount of which it had retained from the payment of interest on the bonds, since that tax is not a tax on the bond, but a personal obligation of the bondholder, arising out of her possession of an income in excess of her exemptions. The court said in part:

"Pursuant to the requirement of the Federal Income Tax Laws, she (appellant) filed her certificate in which she declared that:

'I do not now claim exemption from having the normal tax of 1 per cent. withheld from said income by the debtor at the source.'

—but, notwithstanding this certificate, she demanded payment of the full amount of interest due, without deduction of the 1 per cent., the demand therefor being based upon the theory that the corporation, and not herself, was liable for the tax. It is argued that the very terms of the bond itself required the company to pay any tax, or taxes, which it (the company) might be required to retain. We

are of the opinion, however, that the provision of the Income Tax Law, requiring the withholding of the tax at its source, is a mere provision, intended only to facilitate the more convenient and certain collection of the tax upon income; that the tax in question is not levied upon the bonds, nor primarily upon the interest accumulating thereon. The thing taxed is the income of the holder of the bond, and it may, or may not, be true that the income from a particular bond will be subject to the tax. The condition governing the taxability of the accumulated interest represented by any particular coupon depends not upon the recitals in the bond contract, but upon the amount of income of the particular holder. And the provision of the law for the collection of this tax at its source, rather than from the income taxpayer after the receipt of his dividend, will not change the contractual rights of the parties.

We are cited to no case where the exact question here involved has been decided; but the view we have expressed comports with the construction of such contracts expressed in Black on Income Taxes (2d ed., 1915, sec. 360). That learned writer there says:

'Sec. 360. Bonds of many corporations are issued under a contract by which they are made "tax free," that is, a contract by which the obligor undertakes to pay all taxes which may be assessed on the bonds. But apparently such a covenant does not bind the obligor to pay the income tax on the interest, unless it includes the income tax by name. Under a similar statute enacted by Congress at an earlier day, it was held that a provision in a corporation mortgage, requiring the company to pay the debt and interest "without any deduction, defalcation, or abatement to be made of anything for or in respect of any taxes, charges, or assessments whatsoever," relates to taxes on the property mortgaged or on the mortgage debt, and does not refer to the periodical interest payments regarded as income of the bondholder, and hence does not require the company to pay the interest clear of the income tax (levied in 1864), which tax companies were "authorized to deduct and withhold from all payments on account of any interest or coupons due and payable." On the contrary, it was held the company complies with its contract when it pays the interest, less the tax, and retains the tax for the government.'

In support of this text he cites Haight *v.* Railroad (6 Wall. 15, 18 L. Ed. 818); Baltimore *v.* Baltimore R. (10 Wall 543, 19 L. Ed. 1043)."

Evidence—Demonstration of Objectionable Noise—Reproduction on Phonograph.—In Boyne City, etc., R. Co. *v.* Anderson (146 Mich. 328) it was held that "in proceedings to condemn land for a railroad right of way, the landowner is properly allowed to exhibit to the jury, by means of a phonograph, a reproduction of the noises made